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HIGH COURT OF CHHATTISGARH AT BILASPUR
Writ Petition (c) No. 5494 of 2006

Petitioner : Smt. Uma Hemant Kumar (Sarpanch) Gram Panchayat Khisora W/o. Hemant Kumar, aged about 27 years, R/o. Village : Khisora, Block : Baloda, Tehsil : Janjgir, Distt: Janjgir-Champa (C.G.)

Versus

Respondents :1. State of Chhattisgarh, Through : Secretary, Department of Panchayat, D.K.S. Bhawan Raipur (C.G.)
2. S.D.O. Revenue and Prescribed Authority Janjgir - Champa (C.G.)
3. The Colllector, Janjgir - Champa (C.G.)
4. Khemlal S/o. Santram (Panch) Caste : Satnami,
5. Smt. Champa Bai (Panch) W/o. Shri Daras Ram, Caste : Satnami,
6. Smt. Budhwara Bai (Panch) W/o. Shri Chhat Ram, Caste : Satnami,
7. Smt. Janki Bai (Panch) W/o. Shiv Shankar, Caste : Yadav,
8. Smt. Mangtin Bai (Panch) W/o. Shri Anjor Sai, Caste : Satnami,
9. Smt. Rajin Bai (Panch) W/o. Shri Narendra, Caste : Satnami,
10. Smt. Umenda Bai (Panch) W/o. Shri Santram, Caste : Satnami,
11. Smt. Khik Bai (Panch) W/o. Shri Santram, Caste : Satnami,
12. Smt. Premlal Sahu (Up Sarpanch) S/o. Shri Budhuram Sahu Caste : Sahu
13. Shri Yadram (Panch) S/o. Phirat Ram Yadav, Caste : Yadav,
14. Shri Amarnath Sahu (Panch) S/o. Shri Mohanlal Sahu, Caste : Teli
15. Shri Mahesh Ram (Panch) S/o. Dukalu Caste : Satnami
16. Shri Ganpat Singh (Panch) S/o. Late Pilababoo, Caste : Kanwar,
17. Shri Govind Yadav (Panch) S/o. Shri Kashiram Yadav, Caste : Yadav

18. Shri Harish Chandra (Panch)
S/o. Sobharam Satnami,
Caste : Satnami,
Respondent No. 4 to 18 are Resident of Village : Khisora, Block : Baloda, Tehsil : Janjgir, Distt : Janjgir - Champa (C.G.)
19. Shri Mitresh Sharma,
S/o. Chhedilal Sharma,
Secretary, Gram Panchayat Khisora
Block : Baloda, Distt : Janjgir - Champa (C.G.)
20. Shri Anuj Kumar Patel,
Chief Executive Officer,
Janpad Panchayat Baloda,
Distt : Janjgir - Champa (C.G.)
21. Shri F. Kerketta,
Addl. Tahsildar Janjgir,
(Returning Officer)
Tehsil : Janjgir, Distt : Janjgir - Champa (C.G.)

SB : Hon'ble Justice Shri Satish K. Agnihotri

Present: Mr. Pushpendra Kumar Patel, Advocate for the petitioner.
Mr. Utkarsh Verma, Dy. Govt. Advocate for the respondents No. 1 to 3/State
Ms. Deepali Pandey, Advocate for the respondents No. 4 to 17

ORDER

(Passed on this 11th day of April, 2007)

1. By this petition, filed under Article 226/227 of the Constitution of India, the petitioner challenges the legality and validity of the order dated 26.9.2006 (P/1), passed by the Collector, Janjgir Champa /respondent No. 3, wherein it has been held that 'No Confidence Motion', held on 6.3.2006 (P/2), against the Sarpanch of the Gram Panchayat Khisora, Tahsil Janjgir Champa was '*carried out*'.

2. The first contention of learned counsel appearing for the petitioner is that Rule 5 of the Madhya Pradesh Panchayat (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janpad Panchayat Tatha Zila Panchayat Ke President Tatha Vice-President Ke Virudh Avishwas Prastav) Niyam, 1994 (hereinafter referred to as 'the Niyam, 1994') has not been complied with in its letter and sprit. The second

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contention of learned counsel appearing for the petitioner that if, one member present is declared as invalid, the members constituting the meeting may not be two third of the total members of the said Panchayat.

3. With regard to first contention of learned counsel appearing for the petitioner, it is clear from reading of the Rule 5 of the Niyam, 1994 that requirement of signatures of all the members present before moving 'No Confidence Motion', is a condition precedent for conduct of the meeting. On perusal of the proceeding of 'No Confidence Motion' meeting dated 6.3.2006, it appears that all 16 members were present and had put their signatures. Thereafter, after completion of the meeting when 'No Confidence Motion' was declared as '*carried out*', only 13 members were signed and the requirement of the provisions of the Rule 5 of the Niyam, 1994 has been complied with in its letter and spirit. The members present, had put their signatures in the minutes of the meeting before casting their votes. Thus, the first contention is rejected.

4. With regard to second contention, admittedly, total numbers of the panchas are 21 and two third members as required under Section 21 of the Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 (hereinafter referred to as 'the Adhiniyam, 1993') would be 14 and total number of the members present in the voting were 16. The second requirement that motion of no confidence is to be passed by a majority of not less than three fourth of the panchas present and voting. Out of 16 members present and voting, three fourth would be 12. 15 members have cast their votes in favour of 'No Confidence Motion'. Thus, the Presiding Officer has rightly declared 'No Confidence Motion' was '*carried out*'.

5. In view of the foregoing, the order dated 26.9.2006 (P/1), passed by the Collector, Janjgir Champa/respondent No. 3 is unexceptionable and needs no interference.

6. The writ petition is accordingly dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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